IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.2964 OF 2006

The State of Maharashtra,)
Through the Special Land)
Acquisition Officer, Metro)
Centre No.I, Panvel,)
Taluka Panvel, District Raigad.) ...Appellant

Versus

1. Maibai Krishna Patil,)
   Age: 48 years,)

2. Narmada Sudesh Patil,)
   Age: 24 years,)
   R/o. Pisarve, Taluka Panvel,)
   District Raigad.)

3. Ashok Krishna Patil,)
   Age: 22 years,)

4. Sanjay Krishna Patil,)
   Age: 18 years,)

5. Anita Krishna Patil,)
   Age: 15 years,)
   Applicant Nos.1,3,4,5 R/at)
   Adai, Taluka Panvel,)
   District Raigad.)

Applicant No.5, Minor-Applicant)
No.1 as her guardian.) ...Respondents

WITH
FIRST APPEAL NO.2965 OF 2006

The State of Maharashtra,)
Through the Special Land)
Acquisition Officer, Metro)
Centre No.I, Panvel,)
Taluka Panvel, District Raigad.) ...Appellant

Versus

1. Shri Dharma Shankar Patil,)
   Age: 52 years,)

R/o.Adai, Taluka Panvel,)
District Raigad.) ...Respondent

Shri A.R.Patil, A.G.P for the Appellant in both the Appeals.
Shri Sachin S. Punde for the Respondents in both the Appeals.

CORAM : ABHAY S. OKA, J.

DATE : FEBRUARY 27, 2007.

JUDGMENT:

1. Admit. Advocate for the Respondents waives service. Taken up for hearing forthwith. In these appeals the Appellant State of Maharashtra has taken exception to Judgments and Awards dated 31st August, 2004 passed by the learned Joint Civil Judge, Senior Division, Alibag in references under section 28-A(3) of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act of 1894). The Respondents in both the Appeals are the original claimants. Both the Appeals relate to the same land bearing Survey No.207, Hissa No.2(P) admeasuring one hectare, 2 Are and 9 P situated at Panvel, Taluka Panvel, District Raigad. It is not in dispute that the Respondents in these two Appeals are entitled to one half share in the compensation in respect of the acquired land.

2. The acquired land was notified for acquisition by a notification under section 4 of the said Act of 1894 issued on 03rd February, 1970. By award made under section 11 of the said Act of 1894, the Special Land Acquisition Officer offered marked value at the rate of Rs.5.50 per sq.meter. Though the Respondents accepted the amount of compensation under protest, they did not apply for a reference under section 18 of the said Act of 1894. The Respondents applied under section 28-A of the said Act of 1894 on the basis of judgment and award dated 26th August, 1988 in Land Acquisition Reference No.56 of 1987 by which market value at the rate of Rs.15/- per sq.meter was awarded. On the basis of the said Application, the compensation payable to the Respondents was redetermined and an award was made by the Special Land Acquisition Officer by which market value at the rate of Rs.12/- per sq.meter was offered. The Respondents applied for a reference under section 28-A(3) of the said Act of 1894. Accordingly, two separate references have been made which have been partly allowed by impugned judgments and awards. The trial Court held that the Respondents were entitled to market value at the rate of Rs.29/- per sq.meter.

3. The learned Assistant Government Pleader appearing for the Appellant submitted that the market value fixed by the trial Court is exorbitant. He submitted that in none of the cases decided by this Court in respect of acquisition of land from the same village Panvel, market value at such a high rate has been awarded. The learned Advocate for the Respondents submitted that a Division Bench of this Court in its **Judgment dated 25th and 26th February,** 1993 in the case of **Nama Padu Hudar and Others Vs. State of Maharashtra (First Appeal No.754 of 1986 with other connected matters)** has awarded market value at the rate of Rs.25/- per sq.meter to lands situated at village Panvel and the land subject matter of these Appeals is better located and hence no fault can be found in the market value fixed by the trial Court.

4. I have considered the submissions. In the case of Nama Padu Hudar (supra) this Court was dealing with Appeals arising out of awards made under section 18 of the said Act of 1894 in respect of the lands from village Kamothe and Panvel in Taluka Panvel, District Raigad. The said lands were notified acquisition on 03rd February, 1970 by notification under section 4 of the said Act of 1894. The purpose

of acquisition was establishment of satellite city of Navi Mumbai. The purpose of acquisition of land subject matter of the present Appeals is the same. It is not in dispute that lands from villages Kamothe, Panvel and many other adjoining villages from Taluka Panvel, District Raigad were notified for acquisition for the same purpose under notification dated 03rd February, 1970. The Division Bench in the aforesaid cases divided the acquired lands into five groups on the basis of its distance from Mumbai-Pune highway and different market values were fixed. It is not in dispute that the said decision has attained finality. In fact, in the case of **Shantadevi Hariram Ruparel Vs. Special Land Acquisition Officer & Anr.(Civil Appeal No.1557 of 2006) decided on 06th March, 2006**, the Apex Court has expressly approved the said decision and directed that compensation be awarded in the case before it in accordance with method adopted by the Division Bench.

5. In the present case, the report of the expert valuer shows that the acquired land is situated at a distance of 300 meters from Mumbai-Pune National Highway. There is no serious challenge to the said aspect by the Appellant State. Thus, the said land

will fall in Category II fixed by the Division Bench in the case of Nama Padu Hudar (supra). The market value for such category of lands is fixed at Rs.23/- per sq meter. There is no reason why in the present case the market value should not be fixed in accordance with decision of the Division Bench. The learned A.G.P submitted that considering the fact that the area of the acquired land is very large, some deduction has to be made on account of development charges. Perusal of the decision in the case of Nama Padu Hudar (supra) shows that after considering all factors such as location of the lands, the fact that lands were agricultural lands, the Division Bench as fixed the market value. The Division Bench appears to be conscious of the fact that considering the nature of the lands certain amount will have to be spent on development. After considering these aspects, the rates of market value have been fixed by the Division Bench without providing for further deduction. As stated earlier, the decision in the case of Nama Padu Hudar (supra) has been expressly approved by the Apex Court. Thus, the market value of the acquired land will have to be fixed at the rate of Rs.23/- per sq meter. In this case, there is no dispute as regards the grant of statutory benefits. Hence, Appeals must

succeed in part and I pass the following order:

(i) The impugned judgments and awards are modified and it is held that instead of market value at the rate of Rs.29/- per sq meter, the Respondents will be entitled to market value at the rate of Rs.23/- per sq meter together with all statutory benefits thereon under section 23(1-A), section 23(2) and section 28 of the Land Acquisition Act, 1894. The Respondents in both the Appeals are entitled to one half share in the compensation amount.

(ii) The trial Court will calculate the compensation amount payable to the Respondents within a period of four months from the date of receipt of writ of this judgment.

(iii) The Respondents will be entitled to proportionate costs of the reference as well as these Appeals.

(iv) The Appeals are partly allowed in above terms.

(v) Writ to be sent immediately.

JUDGE